

Forum 2001
National Compliance Assistance Providers Forum
March 7-9, 2001

Highlights

The National Compliance Assistance Providers Forum was held March 7-9, 2001 in Annapolis, Maryland. The Forum was an opportunity to discover new approaches for compliance assistance, to use the expertise of those attending the Forum to develop additional compliance assistance activities, and to nurture relationships with other compliance assistance providers. The sessions that were held over the three days were designed to outline US EPA program and state priorities and to determine stakeholder needs to plan future compliance assistance efforts. The key issues, observations or recommendations from these sessions are highlighted below.

CONCURRENT SESSIONS: Compliance Assistance Planning & Priority Setting 1:15 – 3:00
March 7, 2001

Session I: Identify Compliance Assistance Needs to Address EPA and State Air Priorities

- Compliance assistance works best and is most utilized when there is a credible enforcement threat associated with the program.
- Several participants touted several state hands-on approaches as far better than the federal approach of production of "wholesaler" information distribution. There was general agreement that it is crucial that compliance assistance providers get out into the field and work directly with the sectors and communities for compliance assistance to be effective. Is it realistic for EPA be more hands-on or is EPA's role primarily to provide tools for the states and others to deliver?
- Numerous participants expressed appreciation for the federal efforts but felt that EPA should do more. To what degree can EPA devote more resources to development of assistance tools and/or hands-on delivery?
- Several participants emphasized that more effort needs to be taken to provide instructions and/or assistance on permitting (e.g., Title V operating permits) and other air infrastructure/procedures in addition to the information needed on individual standards (e.g., general provision requirements for monitoring, record keeping, and reporting; testing requirements; procedures for requesting alternatives; procedures for determining potential to emit and obtaining state permits to keep emissions below applicability cutoffs). EPA should develop such tools to the degree that resources allow.
- Numerous participants noted that successful collaborative efforts and that EPA should have more partnerships with states, the small business community, trade associations, and non-governmental organizations, not only for better understanding of the needs, but also for developing tools, providing assistance, communicating the availability of tools/assistance, and information dissemination. EPA should increase their efforts to form such partnerships.

Session II: Identify Compliance Assistance Plans and Priorities for Addressing Environmental Requirements in the Water Media

- Concentrated Animal Feeding Operations (CAFOs) and drinking water utilities continue to be a priority for US EPA. The state of Maryland identified a number of priority sectors they have targeted with compliance assistance efforts recently, including: ready mix concrete, marinas, aggregates, and homebuilding industries.
- There is a growing gap between the resources being spent on water and wastewater infrastructure

- and the equipment and infrastructure that is needed to meet growing demands.
- Participants identified several problems that will need to be addressed, including: treatment of salt in soil that results from releases of treated hard water; the lack of follow-up after permits are issued; incomplete or vague permits; the funding gap for total maximum daily loads (TMDLs); and ex-filtration (flows into water treatment facilities).
 - The recommendations or needs that the group identified were as follows:
 - Clarify the role of EPA and states;
 - Conduct more outreach on maintenance and asset management (CMOM);
 - Real-time bacteria analysis;
 - Guidance for small communities on operating wastewater facilities;
 - Tools to make regulations easier to understand; and
 - Improving release reporting through incentives.

Session III: Identify Approaches to Address Compliance Assistance Needs and Priorities with States

- Recognize groups/organization/infrastructure that already exist and have been providing a considerable amount of compliance assistance such as the Northeast Pollution Prevention Roundtable and the Pollution Prevention Information System (PPIS). PPIS programs are begging for money and EPA needs to redirect funding so that the PPIS have more resources to do outreach and training.
- Consider how to plan for compliance assistance with States using existing processes and infrastructure rather than creating separate planning cycles for CA. For example aligning the timing of EPA/PPG/MOA negotiations and funding schedules to avoid putting unfunded plans on the table.
- Look for more opportunities to partner more effectively with states and others to focus resources to enhance Compliance Assistance planning. This means better communications, too.
- Other possible tools to use in planning compliance assistance priorities include:
 - Innovations;
 - Sectors being targeted for enforcement;
 - Compliance rates and enforcement actions; and
 - Toxics Release Inventory information.
- The Office of Compliance should request special funding from the Administrator for compliance assistance.

CONCURRENT SESSIONS: Compliance Assistance Planning & Priority Setting 3:15 – 5:30

March 7, 2001

Session I: Identify Compliance Assistance Needs to Address EPA and State Pesticides and Toxics Priorities

- Better alignment of EPA voluntary programs with priority compliance sectors
- Better integration of compliance assistance and technical assistance within EPA
- Better application of tools to promote compliance, particularly using States' and other efforts as models.

Session II: Identify Compliance Assistance Needs for EPA and State Multi-media and Sector Priorities

- Sectors can be a useful way to approach assistance.
- Assistance of all types should be used to improve performance, not just compliance.
- Listen to the customers to determine what is needed.
- Customers include states and localities, not just companies.
- Base your assistance programs on overall performance goals (i.e., set your assistance priorities in the context of overall objectives, for a sector, a community, a region, a watershed, etc.).

Session III: Identify Compliance Assistance Needs to Identify EPA and State Solid and Hazardous Waste Priorities

- EPA staff identified the following as priority areas for future compliance assistance: the petroleum refining sector; the metal services sector; and RCRA permit evaders.
- The public needs to be educated about and engaged in environmental protection. There are a number of tools that can be used as part of this education effort, including the Internet, CD-ROMs, and printed materials.
- RCRA is a complex rule that is difficult to understand. As a result, many wastes are misidentified or not identified at all. In addition, the complexity of the rule has caused us to lose sight of the ultimate goal of the rule which is to protect human health and the environment by preventing waste sites, accidents, and promoting resource conservation.
- Improve the marketing and availability of compliance assistance tools. Tools that are needed include tools for making regulatory interpretations, a regulatory inspection manual, and a weighting list of PBTs.

CONCURRENT SESSIONS: Tools and Approaches for Delivering Compliance Assistance 9:00 – 10:45 March 8, 2001***Session I: Integrating Compliance Assistance with Enforcement, Monitoring, and Other Approaches***

- The term “integrated strategies” means strategies that combine compliance assistance, incentives, monitoring and enforcement. Integrated strategies must be tailored to the nature of the environmental problem or environmental performance issue(s).
- A model for when to provide compliance assistance or use integrated strategies might be effective but how it works should be tested and evaluated. Rather than a model, a menu of approaches that providers could choose from might be more useful.
- Other factors to consider in developing integrated strategies or a model should include: environmental and health risk; quality of life; and pollution prevention potential. Additional factors suggested by other participants include: complexity of the regulation; cost of compliance, including incentives; financial capacity; and economic significance of the regulations. Also, regulatory agencies need to consider small business needs for quick returns on investment as a criterion when considering solutions to environmental problems.
- Some participants thought that integrated strategies were appropriate for small businesses but not larger businesses. Other participants thought that size alone should not be a factor in determining who receives compliance assistance. Rather, all facilities should have access to accurate information to help them comply. Still others thought that the federal government should be a conduit for compliance assistance not a direct provider.

Session II: Strategies for Developing and Delivering the “Right” Compliance Assistance Tools

- Before developing any tool do the up-front work with the target audience. Never assume you know what they need. Get to know the target audience intimately and open a dialogue with as many end users as possible (states, trade associations, industry representatives and EPA Regional Program leads). When designing the tool, consider the capacity of the end users and take into account the level of education, the organizational dynamics of the business or industry involved (e.g., consider how environmental responsibilities are managed) and any language barriers that may exist. Adequate time needs to be allowed for the national media programs to work with end users in developing these tools.
- Be prepared to think "out-of-the-box" and align the goals of the end users with the goals of the compliance assistance providers and prioritize these needs. Consideration should be given to addressing the largest environmental impacts first and determining which sectors of business and industry, based on enforcement data, need the most assistance. Securing the support of the target audience helps provide built-in credibility to the tool and forms a network needed for tool marketing, distribution and measurement of success.
- Measure the tools' effectiveness and be willing to revise it if necessary. The importance of field testing compliance assistance tools can't be understated. Once the tools have been tried, and determined to be successful by the end users, encourage them to help champion these tools to ensure their widespread use and to confirm their value.

Session III: Measuring the Results of Compliance Assistance Activities

- Measuring the outcome of compliance assistance efforts is critical for EPA and other providers.
- It is often difficult to measure results at small businesses, because these entities often fall off the “radar screen” of regulators due to their size and relative environmental impact.
- Communities should be involved in the measurement process either as the ones that do the measuring or in determining compliance issues that need to be measured.

Session IV: Challenges of Delivering On-site Compliance Assistance

- Common aspects of the successful on-site assistance programs highlighted during the session included: free, non-regulatory, and request-driven programs; an emphasis on the importance of educating clients about environmental topics; and some aspect of follow-up and evaluation.
- Assistance should be tailored to the type of facility being inspected. Providing copies of regulations, technical information and simple pollution prevention techniques would be appropriate for all facilities. More complex, site-specific assistance would be appropriate for small to medium sized facilities, not large facilities. And, the most technically complex (considered technical assistance) would never be provided during an on-site inspection.
- EPA should be careful not to compete with existing state programs, but should be there to address non-compliance issues that can not be addressed by such programs.
- EPA should develop a national policy on compliance assistance during inspections, after circulation and review by states and other interested groups.

CONCURRENT SESSIONS: Focusing Compliance Assistance Resources to Address Industry Needs 1:30 – 3:15 March 8, 2001***Session I: Strategies for Meeting Compliance Assistance Needs of Small Businesses and mall Communities***

- Small businesses (in particular) need not assume a “keep your head down - out of the line of fire” defensive posture when dealing with regulators. They should be willing to work openly with regulators to help establish a feeling of trust rather than perpetuate what historically has been an adversarial relationship. If small businesses can work collaboratively with regulators in an open, trusting environment, the regulators can better understand how the small businesses operate and what needs to be done to help them comply with their environmental responsibilities.
- Regulatory agencies must simplify all aspects of their program when dealing with small businesses and small communities, including writing simple, plain-language regulations; employing simplified permitting approaches such as general permit programs; simplifying reporting requirements such as offering electronic reporting; and creating simple, easy-to-use compliance assistance tools.
- Regulatory agencies and assistance providers must build the capacity of small businesses/communities to understand and deal with environmental issues. One way to do this is to educate small businesses/communities so that they understand what their potential impact on the environment can be if they do not operate in an appropriate manner (either through application of pollution prevention or through compliance). Partnerships (e.g, regulatory agencies – assistance providers, regulatory agencies – trade associations, peer-to-peer mentoring) can be very effective in capacity building.
- Regulatory agencies need to create/support compliance assistance tools that are easy-to-use, carry low transaction costs, provide benefits to the business and the environment, can be employed whenever a small business/community has the time to use them, and can provide the user with information that is relevant to his/her situation (e.g., a business within a certain sector) without requiring the user to wade through an enormous amount of material. Expert systems or advisors, modeled after those developed by OSHA, hold promise for helping a user understand their environmental responsibilities and how to be responsive. These tools can be the next best thing to providing actual one-on-one, on-site assistance which can be resource intensive and cannot nearly begin to reach all regulated entities.
- Regulatory agencies and assistance providers need to provide incentives for small businesses/communities to want to address their environmental issues. The biggest incentive, particularly for small businesses, is they can save money at the same time they address their environmental concerns.

Session II: Strategies for Meeting Compliance Assistance Needs of Large Industrial Facilities

- EPA needs to ensure that communities have ready access to environmental information and that they are empowered to work toward compliance in their communities.
- Regardless of their in-house capability, large industrial facilities need help interpreting EPA regulations through applicability determinations.
- Compliance assistance approaches must be customized to address individual problems.

Session III: Strategies for Meeting Compliance Assistance Needs of Public and Private Institutions

- Institutions appear to be years behind industry in being aware of environmental regulations and, comparatively, they are resource poor and therefore not adequately prepared to catch up very quickly (like small businesses).
- Success in improving compliance performance among this group will depend on knowing the institutions and their organizational structures, weaknesses and strengths.
- The most successful tools will be ones that are simple and specific to the type of institutions they are intended to help. Many institution-type facilities would be receptive to state and federal compliance assistance and even more receptive to non-enforcement, non-inspection types of on-site assistance.

CONCURRENT SESSIONS: Focusing Compliance Assistance Resources to Address Needs 3:30 – 5:15 March 8, 2001***Session I: Identifying and Targeting Emerging Sectors for Compliance Assistance***

- The challenges faced in identifying and targeting emerging sectors include: how to identify which sector(s) are emerging; how to identify emerging sector compliance assistance needs; and how to deliver compliance assistance to sector.
- There are several traditional indicators for identifying emerging sectors: sectors impacted by the issuance of new rules, compliance numbers, environmental or risk issues, economic view of emerging industries including globalization of industries, etc.
- Emerging sectors may be identified through non-traditional indices, such as, changes in material sciences, process chemistry, natural resources depletion, population shifts, development of science and technology, etc.
- Emerging sectors may be highly localized.
- A philosophical shift may be needed from traditional command-and-control to more educational approaches to both identify and deliver compliance assistance.

Session II: Creatively Leveraging of Resources for Compliance Assistance

- It's important to be aware of the variety of funding sources that exist from EPA, states, and foundations.
- Often the most valuable resource is partnering with other organizations.
- EPA has an important role in facilitating the exchange of information on partnering and funding opportunities.

Session III: Partnering with Community Groups and Compliance Assistance Providers

- Communities need to work with regulatory agencies to better understand the agency process. Outreach efforts to encourage community involvement and educate the community can work through faith-based organizations, local employers and unions. Also, successful outreach needs to identify and tap community leaders.
- Communities need technical assistance to participate effectively. Such assistance must show how an issue impacts the community and include access to information generated by the facility. This kind of assistance and education can enable communities to participate on an educated level to develop appropriate Compliance Assistance documents.
- Communities can accept compliance assistance in the context of enforcement and enforceable requirements that promote pollution prevention.
- EPA's ability to partner with community groups more extensively may depend on statutory requirements, and such requirements are not likely.

The Forum ended with closing remarks that emphasized the importance of partnerships at various levels (e.g., federal-state, state-local government, industry-communities, etc.) as the key to successful compliance assistance. It was announced that the Forum would be held next year in Region 6.